

[Thomas M. Cathcart]

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Winnsboro, S. C. 6/28738 trans 390578 FAIRFIELD COUNTY THOMAS M. CATHCART

(white) 80 YEARS OLD.

Thomas Madden Cathcart is a lawyer and a magistrate. He resides alone in a two-story frame house on North Vanderhorst Street in the town of Winnsboro. He has been the magistrate of this district for fifty-six years, being appointed for the first time in 1882. He is well posted in the law, both civil and criminal. In spite of his age, he never has opposition in the democratic primaries, which is decisive for all elective offices now in South Carolina. His rulings and decisions are sound. In fact, he has not been reversed on appeal to the Circuit Court since the case of Johnson against the Southern Railway Company in 1906.

The old lawyer has some eccentricities when it comes to his personal appearance. His gray hair is worn long about his shoulders. He grows a mustache but is otherwise clean shaven. He was wearing at this interview (May 24, 1938) the same celluloid collar and the same black cravat that he wore in 1904.

"I was the oldest child of our family. My father was an immigrant from northern Ireland, coming to this country about 1827. His name was John M. Cathcart. He began farming six miles north of Winnsboro, and was very successful. He married Nancy Madden, sister of Dr. T. B. Madden, for whom I was named. Do you remember Tom Madden who was for many years postmaster at Columbia? Well, he was my first cousin. The other children in the family were Belle and Mary, my sisters, and one brother, William M. Cathcart, who died in this house last 2 winter. My sisters were educated at Due West, the Associate Reformed Presbyterian College for girls. Both became teachers. I am the only survivor of the family. I have never married. I commenced school at Mt. Zion Institute in 1864, then taught by Prof. Adolphus Woodward and Prof. Farrar. I began in Webster's blue-back speller. The school

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was one of the best in the upper part of the State. The pupils idolized Prof. Woodward. After leaving here, he went to Selma, Alabama, and was head of the school in that city. Prof. Farrar was the assistant; I forget his initials, but he made a military company of the larger boys in attendance.

“Yes, I recollect seeing the Yankees in Winnsboro. They ransacked most of the houses, in search of money, jewelry, silverware, and portable articles of value. Afterward, they set fire to houses of the most prominent people, and committed sacrilege in burning St. John's Episcopal Church on Sunday. They laughingly said they did so because many of the members had the family name, Davis, spelled the same as President Jefferson Davis of the Confederate States.

“After the war, my father engaged in the mercantile business in Winnsboro, and prospered greatly. I left him in January, 1876 and ran off to Randolph County, Illinois. It was a prairie section of country then. The little town or village where I received my mail was named Sparta.

“One day I opened a democratic newspaper, published in Indianapolis, Indiana, and read these headlines: 'Behold! Hampton is inaugurated Governor of South Carolina. Behold Old Confederates! The Radicals sit solitary. They have become as widows. Their filthiness is their skirts. Their garments are stained with the gore of shame and dishonor.' It gave me a longing for home, and I came back to Winnsboro. I began the study of law under Col. James H. Rion, and was admitted to the bar on examination by the Supreme Court of South Carolina.

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When I was appointed Trial Justice, Jno. J. Neil was also a Trial Justice here. Our jurisdiction covered the entire territory of the county. We received no salary, and we were paid according to a fee bill enacted by the Radical Legislature. It was a very lucrative position under the fee bill. Now my salary is \$200.00 per annum, plus costs in civil cases.

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"When the Yankees came through, the Confederate money was much depreciated, but the individual Yankees would exchange powder for it. I remember Mr. John Smith bought some powder for hunting purposes. It was a small amount, but he gave a Yankee ten dollars for it. I remember another incident. Two of General Johnston's Confederate soldiers, in returning to Tennessee, wanted to cross a ferry. They had a quantity of tobacco and some Confederate money. It was left optional with them whether they would pay in money or so much tobacco. One elected to pay in money; the other paid in tobacco.

"Between 1876 and 1900, there were some thickly settled portions of Fairfield County. Most of the inhabitants were white people who owned small farms. Oakland had a democratic club of 360 white men; Greenbriar, 400; and Feasterville 375. Now all white people of means and wealth have moved into Winnsboro, and those who were poor and in bad circumstances went to the cotton mills. The country population now is about seventy-five percent Negro race.

"Horse racing and cock fighting have given place to moving pictures, baseball pool, and punch boards. Draw poker has been changed to stud, and high die to craps. At one time we had seven barrooms in Winnsboro that kept open day and night. There was generally a back room in which cards were played and drinks were served. A country store could secure a county license to sell not less than a quart of liquor. Winnsboro went prohibition once. It lasted just twelve months, and whiskey was restored by a great majority at the election box. Instead of seven barrooms, there were as many or more places that sold liquor.

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"When Hampton was elected, the Democratic Party felt under political obligations to Republican Judge T. J. Mackey for his change of party affiliation during the election campaign of 1876. The Legislature of South Carolina re-elected him Judge of the circuit in which he lived. He was an entertainer on the hustings, in conventions, and, in fact, whenever and wherever called upon. His wit and humor did not depart from him in the

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exercises of his judicial capacity. One of his nephews, Arthur W. Mackey, was a practicing attorney at the Winnsboro bar. Chalmers Gaston, father of the present Judge Arthur Gaston of Chester, was solicitor of the circuit. A homicide case was carried before Judge Mackey, who was holding court in Columbia, Richland County, which was out of the judicial district. The Solicitor, Mr. Gaston, made the point that Judge Mackey being out of his circuit had no right to hear the habeas corpus proceedings in Columbia. Mackey went ahead and heard the case, fixed the bond of the defendant, and said this to the defendant's attorney: 'Mr. Solicitor and Gentlemen of the counsel for the prisoner. It happens that I am going to my home in Chester on the first train this afternoon. You will prepare an order granting the writ and fixing the bond at \$3,000. (I think that was the amount.) We will all take the train together. When the headlight of the engine strikes Fairfield County, get your pen and ink ready. When the tail end of the coach we are riding in passes over the demarcation of Richland and Fairfield Counties, you will present the papers to me, along with the pen freshly inked, and I will sign them. Mr. Gaston, we would like to have your company on this trip.' Mr. Gaston could not constrain his admiration and laughter, and he withdrew his objections to the jurisdiction.

"The greatest personal force in politics since Hampton, in South Carolina, was the force exercised by B. R. Tillman, who wrested the political control of the State from the hands of old time, aristocratic families and put it into the hands of the farmers and poor whites. This Tillman movement, as it was called, divided the white people into two camps, Tillmanites and anti-Tillmanites. The bitterness between the two parties was greater in Fairfield, in 1893, than in any other part of the State, owing to the fact that General John Bratton of Fairfield County was one of his opponents for governor in 1890. Fights, quarrels, and dissensions occurred among members of the same families. Its influence pervaded the court proceedings and affected the selection of petit juries and the complexion of their verdicts. For instances there was a murder case tried here, an interesting one, reported in 40 S. C. Reports (Shand) on page 363, 'The State vs. Atkinson.' The indictment charged Jasper Atkinson as principal and John Atkinson as

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accessory before the fact for the murder of John Clamp. The two Atkinson's were then staying in the home of the deceased Clamp, who was shot and instantly killed one night as he was returning home from Ridgeway. The killing took place January 28, 1893. The case came up for trial at the February term of court, 1893, before Judge Wallace and a jury. The evidence was entirely circumstantial, and the links in the chain were: John Atkinson was a day laborer on the farm for Mr. Clamp. He loved Mrs. Clamp, not wisely but too well. She became infatuated with John, without the unsuspecting husband's knowledge. Jasper appears on extended visit to John Atkinson. Jasper was John Atkinson's uncle. He was small, weak of will, and under the domination of John Atkinson's stronger will. Neither John nor Jasper Atkinson owned a shotgun. Clamp was killed by a wound in the head, made by buckshot. Mr. Clamp kept a shotgun in his house, but he used birdshot. The anxiety of the widow in employing counsel, J. E. McDonald, to look after his interest in the case caused comment. John and Jasper Atkinson were arrested and placed in jail. While making the arrest, the officers of the law burst John Atkinson's trunk open and brought all his papers to the courthouse at Winnsboro. Clamp's shotgun was a muzzle loader. At the scene of the murder, they found pieces of scorched paper wadding, with which the killer had packed the powder and the shot down the muzzle of the gun. These bits of paper fitted into copy of the Fairfield News & Herald found in John Atkinson's trunks on the chain of circumstantial evidence, the jury found both defendants, 'Guilty with recommendation to the mercy of the court.'

"An appeal was taken to the State Supreme Court, but the appeal was dismissed. Chief Justice McIver overruled all the exceptions and remanded the case to the lower court to set a new day for the execution.

"In all the history of criminal cases, these two men are the only ones who suffered the extreme penalty of death where the verdict was, 'Guilty with recommendation to the mercy of the court.' Every governor from Rutledge to Tillman recognized the recommendation as a case of commuting the death sentence to one of life imprisonment. The Tillmanites made a minor political issue out of it in the primaries of 1894. Tillman was still governor,

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but was making his campaign for U. S. Senator. He ignored the hoary precedent, he said, in favor of enlightenment and justice denied the application for executive clemency, and the Atkinsons were hanged publicly in the courthouse yard that summer before the primary election.

Strange to say, that fall (1894) a Tillmanite Legislature passed the following act:

CODE OF 1932, Sect. 1102.

Whoever is guilty of murder shall suffer the punishment of death: PROVIDED, However, That in each case where the prisoner is found guilty of murder, the jury may find a special verdict recommending him or her to the mercy of the 7 court, whereupon the punishment shall be reduced to imprisonment in the penitentiary with hard labor during the whole lifetime of the prisoner.

Act of 1894.

“Now it is mandatory on the Circuit Judge presiding to give heed to such words on an indictment, and to send such prisoners to the penitentiary for life.”